

### REMARKS

The Final Office Action mailed March 16, 2009, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

#### Claim Status

Claims 1-10 and 12-19 are pending in this Application. By this Amendment, Applicants have amended claims 1 and 9 and cancelled claims 2, 7 and 14-17. The Office will note that the subject matter of now cancelled claims 2 and 7 have been placed in amended independent claim 1.

#### Double Patenting

Claims 1-18 stand provisionally rejected on the ground of non-statutory obviousness-type double patenting as being as being unpatentable over claims 1-6 of copending Application No. 11/711,229. Attached hereto is a terminal disclaimer against Application No. 11/711,229.

#### Claims Rejections Under 35 USC § 102

Claims 1, 2, 6, 7, 11 and 19 stand rejected under 35 USC § 102(b) under Chatterjee (WO 00/68329). This rejection is respectfully traversed.

As stated above, the Office will kindly note that Applicants have imported into independent claim 1 the limitations of now cancelled claims 2 and 7.

It is axiomatic that a § 102 rejection requires the prior reference to teach each and every aspect of the claimed invention. Here, it is Applicants' respectful position that such requirement can not be met by Chatterjee.

In the presently claimed invention, the reaction products of fatty acids and diamines in a ratio of 2:1 are claimed and the resulting products are diamides. In direct contrast to the presently claimed invention, Chatterjee describes the reaction of fatty acids with polyamines (also diamines) in a ratio of 1:1 to 1:1.5 (page 11, line 7). This reaction of Chatterjee leads to a completely different class of compounds, specifically, amidoamines and imidazolines.

Thus, under § 102, Chatterjee fails to describe each and every aspect of applicants claimed invention as the ratio of 2 to 1 is not present anywhere within Chatterjee and Chatterjee's reaction sequence refers to, and yields, a disparate and distinct class of compounds.

Claims 1, 6, 11 and 19 stand rejected under 35 USC § 102(b) over SFDP(677,935). This rejection is respectfully overcome as Applicants have added the claimed subject matter of now cancelled claims 2 and 7 to independent claim 1.

#### Claim Rejections Under 35 USC § 103

Claims 3-5, 8, 9, 10, 12, 13 stand rejected under 35 USC § 103(a) as being unpatentable over Chatterjee in view of Olivier (FR 2765229). This rejection is respectfully overcome.

For at least the reasons with respect to the § 102(a) rejection of claims 1, 2, 6, 7, 11 and 19 under section 102(b) over Chatterjee it is respectfully contended that no combination of Chatterjee in view of Olivier can make the instant invention obvious as neither reference teaches discloses or suggests the reaction products of fatty acids and diamines in a ratio of 2:1.

With regard to the Office's rebuttal of Applicants' previous arguments, it states on page 7 of the Office Action:

The invention ... is the same invention as Chatterjee's main teachings with the use of fatty acids ... with ethylene polyamine, including ethylene diamine of mole ratio **1:1 to 2:1** (Table 5, ex 5-1) and Table 6, ex 6-3.

However in Table 5, Example 5-1 of Chatterjee, the ratio of acid : amine = 1:1,1 and therefore outside of the scope of amended claim 1. In Example 6-3, there is a disclosure of a single example where a fatty acid has been reacted with a special amine (DETA = Diethylenetriamin) in a ratio of > 1:1.

It seems that the Office refers here to the weight percentages of the both components (1300:519 however yields 2.5), but this is not identical with the molar ratio. Taking the acid numbers for tall oil listed in literature (which mainly consists of fatty and resin acids) the molar ratio of acid : diamine can easily be calculated:

Ullmann's Encyclopedia of Industrial Chemistry, Wiley Interscience, online-Ausgabe, chapter "Tall Oil": Acid Number (AN) 140-165 mg KOH/g.

AN 140 --> molar mass 401, 1300 kg = 3.24 kmol; 519 kg ethylenediamine = 8.65 kmol; molar ratio acid: diamine = 3.24:8.65 = 1:2.67

AN 165 --> molar mass 340, 1300 kg = 3.82 kmol; acid : diamine = 3,82:8,65 = 1:2.26.

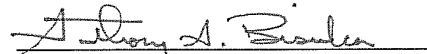
It is Applicants' courteous position that the above only means that only reaction products of fatty acids and diamines are disclosed by the prior art that have been reacted in a molar ratio of 1:1 or less. The instant application however claims reaction products of fatty acids and ethylenediamine having been reacted in a ratio of 2:1. The different ratios of the starting components lead to different products with different chemical structures.

For at least this reason, it is respectfully believed that the above §102 and §103 rejections have been traversed or overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

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In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

  
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